

October 20, 1997

DURHAM, NORTH CAROLINA
MONDAY, OCTOBER 20, 1997
7:30 P.M.

The Durham City Council met in regular session on the above date and time in the Council Chamber at City Hall with the following members present: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Absent: None.

Also present: City Manager P. Lamont Ewell, City Attorney Henry Blinder, Deputy City Clerk D. Ann Gray and Administrative Assistant Linda Evans.

The Mayor called the meeting to order asking for priority items from the City Manager, City Attorney and City Clerk. City Manager Ewell recognized Kendall Abernathy of the Housing Department. Ms. Abernathy informed the council and audience of two awards the City of Durham received regarding affordable housing.

There were no priority items from the City Attorney/City Clerk.

Council Member Clement informed his colleagues that former City Council Member Shirley Caesar was recently inducted into the Gospel Music Hall of Fame. Council Member Cox recognized Boy Scout Troop #451 who were attending the meeting this evening.

Mayor Kerckhoff asked if any council member(s) or citizen(s) wanted to pull any item(s) from the Consent Agenda for discussion later in the meeting. Council Member McKissick stated he no longer wanted to pull Consent Item 9 [Major Site Plan for Wingate Inn Hotel] and asked that it be passed as a part of the Consent Agenda. It was noted that Consent Item 14 [Water Service for Residential Outdoor Watering and Irrigation] was being referred to the administration.

MOTION by Council Member Larson seconded by Council Member Miller to approve the Consent Agenda as amended was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

[CONSENT AGENDA]

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SUBJECT: RESOLUTION MEMORIALIZING WADE L. CAVIN, SR.

MOTION by Council Member Larson seconded by Council Member Miller to adopt a "Resolution Memorializing Wade L. Cavin, Sr. Mayor of the City of Durham 1975-1979" was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Resolution #8400

SUBJECT: INCREASES TO WATER AND SEWER CAPITAL FACILITY FEES

MOTION by Council Member Larson seconded by Council Member Miller to adopt "An Ordinance Amending Durham City Code Section 23-40.1 Pertaining to Water and Sewer Capital Facility Fees" was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Ordinance #11280

SUBJECT: FINAL APPROVAL - MUNICIPAL GRANT AGREEMENT WITH DURHAM COUNTY HABITAT FOR HUMANITY

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a Municipal Grant Agreement with Durham County Habitat for Humanity, Inc. in an amount not to exceed \$600,000 from City General Funds, and to make minor changes to the Grant Agreement as are consistent with this approval; and

To find that funds for this purpose are not otherwise available, wholly or in part, from public or private lenders, upon equivalent or reasonably equivalent terms and conditions was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: AMENDMENT NO. 2 TO THE MUNICIPAL AGREEMENT BETWEEN NORTH CAROLINA DEPARTMENT OF TRANSPORTATION AND THE CITY OF DURHAM AND CAPITAL PROJECT ORDINANCE - INTERIM AMTRAK STATION

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MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute "Amendment No. 2 to the Municipal Agreement between the North Carolina Department of Transportation and the City of Durham" for reimbursement of the costs associated with the extension of the passenger boarding platform at the interim Amtrak Station; and

To adopt a "Capital Project Ordinance Superseding Ordinance #11184 Concerning Interim Amtrak Station Improvements" was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Ordinance #11281

SUBJECT: STAFF REPORT/RECOMMENDATIONS ON CEMETERY REPORT PREPARED BY GEORGE WILLIAMS

MOTION by Council Member Larson seconded by Council Member Miller to receive the staff report/recommendations on the Cemetery Report prepared by George Williams was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: PROPOSED LEASE OF PROPERTY AT 119-121 ORANGE STREET (ORANGE STREET MALL) - JAMES H. HANNA, JR.

MOTION by Council Member Larson seconded by Council Member Miller to approve and authorize the City Manager to execute a lease agreement with James H. Hanna, Jr. for property at 119-121 Orange Street was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: ENVIRONMENTAL AFFAIRS BOARD - APPOINTMENTS

MOTION by Council Member Larson seconded by Council Member Miller to appoint David Kirkpatrick, representing the Solid Waste category, and Joseph Bernard Jackson, representing the Water Resources category, to the Environmental Affairs Board with terms to expire June 1, 2000 was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem

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Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: DURHAM OPEN SPACE AND TRAILS COMMISSION - MAYOR'S NOMINATION

MOTION by Council Member Larson seconded by Council Member Miller to approve the Mayor's nomination of Harris E. Williams to the Open Space and Trails Commission for a term to expire December 31, 1998 was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN FOR WINGATE INN HOTEL - AXAR MANAGEMENT, INC., BASS, NIXON, KENNEDY, INC.

MOTION by Council Member Larson seconded by Council Member Miller to approve a major site plan for Wingate Inn Hotel, submitted by Axar Management, Inc./Bass, Nixon, Kennedy, Inc. for a 6-story, 100-room, 58,724-square foot hotel on property zoned GC (General Commercial) and MTC (Major Transportation Corridor) Overlay, on a 1.9573-acre site located on the north side of 15-501, east of Mt. Moriah Road and I-40, adjacent to University Lights (Tax Map 477-1-3 and 3a--subject to the access being approved by North Carolina Department of Transportation (NCDOT) was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None. [If the access is not approved by NCDOT, a new site plan will be submitted to the Development Review Board.]

SUBJECT: MAJOR SITE PLAN FOR WINCHESTER PLACE - OFFICE COMPLEX

MOTION by Council Member Larson seconded by Council Member Miller to approve a major site plan for Winchester Place - Office Complex, submitted by Rice and Associates, for a 3-story, 105,000 square-foot office complex with 523 parking spaces on property located within the Imperial Center Business Park on the north side of Emperor Boulevard and south of Slater Road (Tax Map #585-3-12) and zoned I-1 was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown,

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Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: SITE PLAN APPROVAL - CITY OF DURHAM TEMPORARY TRANSFER STATION

MOTION by Council Member Larson seconded by Council Member Miller to approve a site plan for the City of Durham Temporary Transfer Station, submitted by City of Durham Departments of Water Resources and Solid Waste Management, consisting of a 45,000 square-foot temporary transfer station, proposed on ±71.98 acre site, zoned I-2 and F/J-B, located on the north side of Club Boulevard adjacent to the North Durham Reclamation Facility, west of Glenn Road and east of Ellerbee Creek (Tax Map #618-01-001) was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: CORRECTION IN THE PURCHASE PRICE FOR PROPOSED ACQUISITION OF PROPERTY FROM WILLIAM C. BOYCE, JR. AND MELVIN RUDDER - EDMONTON AREA II

MOTION by Council Member Larson seconded by Council Member Miller to rescind City Council action of July 21, 1997 approving the Option to purchase the property at 209 Laurel Street for \$50,000 from William C. Boyce, Jr. and Melvin Rudder; and

To approve the Option to purchase said property for \$51,000 was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: WATER EXTENSION AGREEMENT - GOLDEN CORRAL

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a Water Extension Agreement with Golden Corral Corporation to extend City water to Golden Corral, a proposed restaurant to be located on the west side of N.C. #55 between Sedwick Road and N.C. #54 was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None.

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Absent: None.

SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH SCA-NORTH CAROLINA LIMITED PARTNERSHIP - CAMERON APARTMENTS AT SOUTH POINTE CROSSING

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a Water and Sewer Extension Agreement with SCA-North Carolina Limited Partnership to extend City water and sewer to the Cameron Apartments at South Pointe Crossing, a 26.04-acre, 288-unit apartment and commercial complex located on the north side of N.C. #54 between Fayetteville Road and Rollingwood Drive was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: WATER EXTENSION AGREEMENT WITH REGENT TRIANGLE - TRIANGLE POINTE APARTMENTS

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a Water Extension Agreement with Regent Triangle, Inc. to extend City water to serve the Triangle Pointe Apartments, a 28.42-acre 224-unit apartment complex located on the southeast corner of the intersection of Angier Avenue and Page Road was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: WATER SERVICE FOR RESIDENTIAL OUTDOOR WATERING AND IRRIGATION

To approve the "cowhorn" concept as a second, water-only service for irrigation purposes for single-family residential customers at a charge of \$450 and that no Capital Facility Fee be charged for such an installation.

MOTION by Council Member Larson seconded by Council Member Miller to refer this item to the administration was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

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SUBJECT: TIME PAYMENT PETITIONS

MOTION by Council Member Larson seconded by Council Member Miller to approve the eight Time Payment Petitions listed below was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

1. L. Randall and Rebekah B. Crawford - 2628 Ferrand Drive - Water Capital Facility Fee and Sewer Capital Facility Fee
2. Lonnie L. Crawley - 2800 Darrow Road - Water Lateral
3. Fern G. King - 3818 S. Alston Avenue - Water Lateral, Sewer Lateral, Water Capital Facility Fee and Sewer Capital Facility Fee
4. Roger W. and Harriett A. King - 1801 Bradford Circle - Sewer Lateral and Sewer Capital Facility Fee
5. Eddie H. and Helen K. O'Briant - 4609 Reigalwood Drive - Water Lateral and Water Capital Facility Fee
6. Clyde R. and Sherry Tallent - 1304 Ed Cook Road - Water Lateral and Water Capital Facility Fee
7. Richard T. and Mary I. Tilley - 1806 Birmingham Avenue - Sewer Lateral, Sewer Main and Sewer Capital Facility Fee
8. Ross M. and Deborah S. Ungerleider - 216 Continental Drive - Sewer Lateral and Sewer Capital Facility Fee

SUBJECT: SETTING PUBLIC HEARINGS FOR THE CONFIRMATION OF CERTAIN ASSESSMENT ROLLS

MOTION by Council Member Larson seconded by Council Member Miller to adopt resolutions setting public hearings on Monday, November 3, 1997 for confirmation of the following assessment rolls:

- a. **Water Main - Hillock Place** from Riverdale Drive to North Property Line of Tax Map 821-1-7G
- b. **Sewer Main - Ellis Road** from Ed Cook Road to Rada Drive

was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members

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Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: SETTING PUBLIC HEARING TO CONSIDER ORDERING PETITIONED IMPROVEMENT

MOTION by Council Member Larson seconded by Council Member Miller to adopt a resolution setting a public hearing on Monday, November 3, 1997 [continued from October 20, 1997] to consider ordering water main improvements on Heather Glen Road from Russell Road to Falkirk Drive; **Falkirk Drive** from south property line of Tax Map 836-2-18 to east property line of Tax Map 836-3-30; **Westcott Place** from Heather Glen Road to cul-de-sac; **Perth Place** from Falkirk Drive to cul-de-sac; **Fairntosh Place** from Falkirk Drive to cul-de-sac and **St. Clair Place** from Falkirk Drive to cul-de-sac was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: TWENTY-FIVE MILE PER HOUR SPEED LIMIT - AUTUMN DRIVE
MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance establishing a 25 mile per hour speed limit on Autumn Drive from Latta Road to Miramont Drive was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Ordinance #11282

SUBJECT: CITY COUNCIL MINUTUES - CITY CLERK'S OFFICE

MOTION by Council Member Larson seconded by Council Member Miller to approve the official minutes of the following City Council Meetings was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

August 25, 1997 - Special Meeting
September 15, 1997 - Regular Meeting

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[GENERAL BUSINESS AGENDA]

[PUBLIC HEARINGS]

SUBJECT: Sewer Main - Deep Wood Circle from south property line of Tax Map 433-7-4 to north property line of Tax Map 433-7-6

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt a resolution confirming the assessment roll for sewer main on Deep Wood Circle from south property line of Tax Map 433-7-4 to north property line of Tax Map 433-7-6 was approved at 7:46 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: Water Main - West Pettigrew Street from Erwin Road to Swift Avenue

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt a resolution confirming the assessment roll for water main on West Pettigrew Street from Erwin Road to Swift Avenue was approved at 7:46 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: Curb, Gutter and Paving - Taylor Street from Railroad to Elm Street (Mini Assessment Roll)

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

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a. Property of Shelton M. and Katie E. Jones

MOTION by Council Member Larson seconded by Council Member Griffinto find that the property of Shelton M. and Katie E. Jones, identified as Tax Map #129-11-1B, 903 Taylor Street, Lot 3, has benefited from the improvement and to confirm the assessment in the amount of \$2,680 was approved at 7:46 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

b. Property of Lee R. Bergman, LLC

MOTION by Council Member Larson seconded by Council Member Griffin to find that the property of Lee R. Bergman, LLC, identified as Tax Map #132-2-4, 1009 Taylor Street, has benefited from the improvement and to confirm the assessment in the amount of \$1,200 was approved at 7:46 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: Sewer Main - Umstead Road from Riverdale Drive to Hallmark Road (Mini Assessment Roll)

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Griffin to find that the property of Kathryn J. Hutchings, identified as Tax Map #821-1-4B, 1937 Umstead Road, 3.01 acres, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$2,610.01 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: Curb, Gutter, and Paving - Primitive Street from Gurley Street to Queen Street (Mini Assessment Roll)

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public

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hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Griffin to find that the property of Lee R. Bergman, LLC, identified as Tax Map #122-1-8, 604 Queen Street, Primitive Street, Lot 31, has benefited from the improvement and to confirm the assessment in the amount of \$2,086.80 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: Sewer Main - Mineral Springs Road from Holder Road to South Property Line of Tax Map 637-1-6 (Mini Assessment Roll)

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

a. Property of Iunius T. Noles

MOTION by Council Member Larson seconded by Council Member Griffin to find that the property of Iunius T. Noles, identified as Tax Map #636-2-8A, 915 South Mineral Springs Road, Lots 12-15, vacant, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$7,600; and

To find that the property of Iunius T. Noles, identified as Tax Map #636-2-8C, 923 South Mineral Springs Road, Lots 10 and 11, vacant, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$3,800; and

To find that the property of Iunius T. Noles, identified as Tax Map #636-1-1, 930 South Mineral Springs Road, Tract 10, has not benefited at this time from the improvement and to relieve the assessment in the amount of \$14,060 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property connect to the sewer main (in accordance with City policy) was approved at 7:47 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

b. Property of Susan B. Greene

MOTION by Council Member Larson seconded by Council Member

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Griffin to find that the property of Susan B. Greene, identified as Tax Map #636-2-9, 941 South Mineral Springs Road, No Lot #, vacant, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$7,600 (partial relief granted in accordance with City policy) was approved at 7:47 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

c. Property of Jean C. Hill

MOTION by Council Member Larson seconded by Council Member Griffin to find that the property of Jean C. Hill, identified as Tax Map 636-1-4, 920 South Mineral Springs Road, Lot 2, has benefited from the improvement and to confirm the assessment in the amount of \$3,800 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: Curb, Gutter, and Paving - Holman Street from Angier Avenue to Dead End (Mini Assessment Roll)

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Attorney Clyde Wootton, representing North Carolina News Company and Mr. & Mrs. Artis Plummer, spoke in opposition to these assessments. He stated his clients felt they have not benefited and requested that they be relieved.

Mayor Kerckhoff closed the public hearing.

City Engineer Ken Wright stated this was an Enabling Act Project which is a part of the North/East Central Durham Project. He noted there were no petitions circulated because it is not a part of the procedure under the Enabling Act Authority. Also, Mr. Wright stated the staff's records indicate that Mr. Artis Plummer and the North Carolina News Company were notified along with the other property owners.

A motion was made by Council Member Wright to approve the item 7(a-e) as printed on the agenda. This motion was seconded by Council Member Clement.

A substitute motion was made by Council Member McKissick to approve item 7(b,d & e) as printed on the agenda; and to

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relieve the assessments against North Carolina News Company and Mr. & Mrs. Artis Plummer. Motion failed due to the lack of a second.

a. Property of North Carolina News Company, Inc.

MOTION by Council Member Wright seconded by Council Member Clement to find that the property of North Carolina News Company, Inc., identified as Tax Map #134-1-1, 1214 Angier Avenue, Holman Street, Lot 8, has benefited from the improvement and to confirm the assessment in the amount of \$1,566; and

To find that the property of North Carolina News Company, Inc., identified as Tax Map #134-1-10, Holman Street, part of Lot 9, has benefited from the improvement and to confirm the assessment in the amount of \$1,466 was approved at 7:59 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

b. Property of Southern Repair Service, Inc.

MOTION by Council Member Wright seconded by Council Member Clement to find that the property of Southern Repair Service, Inc., identified as Tax Map #134-1-9, 215 Alston Avenue, Holman Street, 2.162 acres, has benefited from the improvement and to confirm the assessment in the amount of \$3,900 (assessed for actual length of curb, gutter, and paving) was approved at 7:59 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

c. Property of Artis and Josephine Plummer, Sr.

MOTION by Council Member Wright seconded by Council Member Clement to find that the property of Artis and Josephine Plummer, Sr., identified as Tax Map #135-1-50, 207 Holman Street, Lot A and unnumbered lot, has benefited from the improvement and to confirm the assessment in the amount of \$2,195.40; and

To find that the property of Artis and Josephine Plummer, Sr., identified as Tax Map #135-1-62, 209 Holman Street, Lot B, has benefited from the improvement and to confirm the assessment in the amount of \$510 was approved at 7:59 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard,

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Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

d. Property of Charles E. Jones

MOTION by Council Member Wright seconded by Council Member Clement to find that the property of Charles E. Jones, identified as Tax Map #135-1-63, 215 Holman Street, no lot #, has benefited from the improvement and to confirm the assessment in the amount of \$2,280 was approved at 7:59 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

e. Property of Allen M. Swartz

MOTION by Council Member Larson seconded by Council Member Griffin to find that the property of Allen M. Swartz, identified as Tax Map #135-1-64, 225 Holman Street, no lot #, has benefited from the improvement and to confirm the assessment in the amount of \$800 (assessed for actual length of curb, gutter and paving) was approved at 7:59 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: Water Main - Heather Glen Road from Russell Road to Falkirk Drive; **Falkirk Drive** from south property line of Tax Map 836-2-18 to east property line of Tax Map 836-3-30; **Westcott Place** from Heather Glen Road to cul-de-sac; **Perth Place** from Falkirk Drive to cul-de-sac; **Fairntosh Place** from Falkirk Drive to cul-de-sac and **St. Clair Place** from Falkirk Drive to cul-de-sac

Note: Administration requests that the following hearing be opened, citizens' comments received, and hearing continued until the November 3, 1997 City Council Meeting.

To adopt a resolution ordering water main on **Heather Glen Road** from Russell Road to Falkirk Drive; **Falkirk Drive** from south property line of Tax Map 836-2-18 to east property line of Tax Map 836-3-30; **Westcott Place** from Heather Glen Road to cul-de-sac; **Perth Place** from Falkirk Drive to cul-de-sac; **Fairntosh Place** from Falkirk Drive to cul-de-sac and **St. Clair Place** from Falkirk Drive to cul-de-sac.

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Mayor Kerckhoff opened the public hearing on this item. No one spoke on this item.

MOTION by Council Member Larson seconded by Council Member Miller to continue the public hearing without further advertisement until the November 3, 1997 City Council Meeting was approved at 8:00 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

**SUBJECT: ZONING MATTER CASE P97-57, LAMPE MANAGEMENT COMPANY,
WEST SIDE OF NC 751 NORTH OF THE I-40
INTERCHANGE**

Case: P97-57

Applicant: Lampe Management Company

Location: 10.263-acre site located on the west side of NC 751, 1,400 feet north of the I-40 interchange, identified as Tax Map 428, Block 2, Lot 1.

Request: Rezoning from R-20 (Residential 20) to CT(D) (Commercial Trades District with a Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and placing same in and establishing same as CT(D).

Zoning Committee's Recommendation and Vote: Approval (5-1)

City Manager's Recommendation: Denial

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Proponents

Duane Stewart, representing the applicant, spoke in support of the request. Mr. Stewart noted the applicant was proposing an impervious area of about 47 percent and the limited trips to be generated from the proposal. Also, Mr. Stewart stated the developers have agreed to the request by the Durham Open Space and Trails Commission that the landscape buffer on the south and west be dedicated for a trail.

Opponents

Jim McDonald, a resident of Somerset Drive, asked the council to deny this rezoning request for the following reasons: 1)

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inappropriate zoning request for the type of development being proposed; 2) the CT zone appears to be inconsistent and potentially destructive to the current landuse; and 3) both the Comprehensive Plan and Southwest Durham Plan target the area for residential growth.

Nonna Skumanich, representing Hope Valley Neighborhood Association, spoke in opposition to this request. She stated the developer had not made any effort to meet with any neighborhood associations.

Trish Koman, a resident of Brandermill Drive, asked the council to make sure that development coincides with plans already adopted for the area.

Marta Gore, a resident of Hope Valley Farms, spoke in opposition to the rezoning request.

Rebuttal

Duane Stewart stated the applicant did talk with the apartment owners in the immediate area and they were not opposed.

Mayor Kerckhoff closed the public hearing.

Council Member Wright spoke in opposition to the rezoning request. Ms. Wright stated that she would make the motion to approve the rezoning request; however, she would be voting no.

A motion was made by Council Member Wright to approve the rezoning request. This motion was seconded by Council Member Miller.

Council Member McKissick asked the developer if he would be willing to meet with the various neighborhoods relative to their concerns.

Duane Stewart, representing the applicant, replied yes.

Council Member Clement spoke in support of the rezoning request. He stated this proposal would increase the tax base for the City of Durham.

Several Council Members spoke in support of the staff's recommendation [denial] of this request.

SUBSTITUTE MOTION by Council Member McKissick seconded by Council Member Griffin to continue this item until the November 17, 1997 City Council Meeting to allow the developer and neighborhoods to have some dialogue **FAILED** at 8:50 p.m.

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by the following vote: Ayes: Council Members McKissick, Clement and Griffin. Noes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Cox, Engelhard, Hyman, Langley, Larson, Miller and Wright. Absent: None.

MOTION by Council Member Wright seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and placing same in and establishing same as CT(D) **FAILED** at 8:50 p.m. by the following vote: Ayes: Council Members Clement and Griffin. Noes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Cox, Engelhard, Hyman, Langley, Larson, McKissick, Miller and Wright. Absent: None.

SUBJECT: ZONING MATTER CASE P97-27, CITY OF DURHAM, EAST OF CHICAGO STREET IN COLLIER ESTATES SUBDIVISION

Case: P97-27

Initiated by: City of Durham

Location: The 44.21-acre site is located east of Chicago Street in the Collier Estates Subdivision and is located on Collier Road, Jonathan Circle, and Melody Circle, identified as Tax Map 408A, Block 1, Lots 1A, 4 partial, 10 partial, 11-48, 49 partial and 50 partial; and Block 2, Lots 1A, 1B and 1-36.

Request: Rezoning from I-2(D) (Light Industrial with a Development Plan) to R-5 (Residential 5)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of I-2(D) and placing same in and establishing same as R-5.

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Ms. Annie Pegram, a resident of Collier Road, spoke in support of this item. Also, Ms. Pegram raised concern with Alston Avenue being narrow and asked that a four-way stop be erected at the corner of Riddle Road and Alston Avenue.

No one spoke in opposition. Mayor Kerckhoff closed the public hearing.

Council Member Clement invited Ms. Pegram to attend the

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Public Works Committee Meeting scheduled on Monday, November 10, 1997 to discuss the concerns of traffic patterns on Riddle Road and Alston Avenue.

MOTION by Council Member McKissick seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of I-2(D) and placing same in and establishing same as R-5 was approved at 8:55 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

[OTHER MATTERS]

SUBJECT: TAXICAB COMMISSION REPORT

To receive a report from the Taxicab Commission and to take action on the following recommendations of the Taxicab Commission pursuant to Section 22-159.10 of the Durham City Code:

a. Transfer of Operator's Licenses

1) Buck's Cab Company #104

Taxicab Inspector's Recommendation: Approve transfer of Operator's License #104 from John Meeks to Abdulraouf Ali--in accordance with City Code

Taxicab Commission's Recommendation: Approve transfer of Operator's License #104 from John Meeks to Abdulraouf Ali (Vote 3-0)

MOTION by Council Member Wright seconded by Council Member Larson to approve the Taxicab Commission's recommendation [approve transfer of Operator's License #104 from John Meeks to Abdulraouf Ali] was approved at 8:56 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

2) Positive Cab Company #00

Taxicab Inspector's Recommendation: Approve transfer of Operator's License #00 from Nyewagi Oba to Sirageldin Osman--in accordance with City Code

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Taxicab Commission's Recommendation: Approve transfer of Operator's License #00 from Nyewagi Oba to Sirageldin Osman (Vote 3-0)

MOTION by Council Member Wright seconded by Council Member Larson to approve the Taxicab Commission's recommendation [approve transfer of Operator's License #00 from Nyewagi Oba to Sirageldin Osman] was approved at 8:56 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

b. Denial of Driver's Permit - Michael Spain

Taxicab Inspector's Recommendation: Deny Driver's Permit for Michael Spain--in accordance with City Code

Taxicab Commission's Recommendation: Deny Driver's Permit for Michael Spain (Vote 3-0)

MOTION by Council Member Wright seconded by Council Member Larson to approve the Taxicab Commission's recommendation [deny driver's permit for Michael Spain] was approved at 8:56 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

c. Revocation of Operator's License - Phoenix Cab Company #48

Taxicab Inspector's Recommendation: Revoke Operator's License #48 from Roger Amey--in accordance with City Code

Taxicab Commission's Recommendation: Not revoke Operator's License #48 from Roger Amey (Vote 3-0).

MOTION by Council Member Wright seconded by Council Member Larson to approve the Taxicab Commission's recommendation [not revoke Operator's License #48 from Roger Amey] was approved at 8:56 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

d. Revocation of Operator's License/Transfer of Operator's License - P. M. Taxi #113

Taxicab Inspector's Recommendation: Revoke Operators License #113 from Paul Thompson--in accordance with City Code or

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approve transfer of Operator's License #113 from Paul Thompson to Ms. LaTanya Moore--in accordance with City Code.

Taxicab Commission's Recommendation: Transfer Operator's License #113 from Paul Thompson to Ms. LaTanya Moore with an eighteen-month probationary period and bring Ms. Moore back before the Taxicab Commission if any violations of the Taxicab Ordinance occur during this probationary period (Vote 3-0)

MOTION by Council Member Wright seconded by Council Member Larson to continue this item until the November 3, 1997 City Council Meeting was approved at 8:56 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: STATIONARY CONTAINER POLICY

A motion was made by Council Member Miller to approve the item as printed on the agenda. This motion was seconded by Council Member Cox.

SUBSTITUTE MOTION by Council Member McKissick seconded by Council Member Griffin to refer this item to the administration **FAILED** at 8:57 p.m. by the following vote: Ayes: Council Members McKissick, Clement and Griffin. Noes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Cox, Engelhard, Hyman, Langley, Larson, Miller and Wright. Noes: None. Absent: None.

Council Member Clement requested that each motion be severed.

MOTION by Council Member Miller seconded by Council Member Cox to retain the current service level and fee schedule for stationary container service through the remainder of Fiscal Year 1997-98 was approved at 9:00 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Cox, Engelhard, Hyman, Langley, Larson, Miller and Wright. Noes: Council Members McKissick, Clement and Griffin. Absent: None.

MOTION by Council Member Miller seconded by Council Member Cox to pursue a legislative remedy that will allow the City to pay for stationary container service that serve housing units that qualify for rollout service was approved at 9:00 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller

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and Wright. Noes: None. Absent: None.

MOTION by Council Member Miller seconded by Council Member Cox to adopt an "Ordinance Amending Chapter 10 of the Durham City Code Relating to Garbage Collection" was approved at 9:03 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Cox, Engelhard, Hyman, Langley, Larson, Miller and Wright. Noes: Council Members McKissick, Clement and Griffin. Absent: None.

Ordinance #11283

MOTION by Council Member Miller seconded by Council Member Cox to direct the Administration to investigate the feasibility of charging the full cost of stationary container service in Fiscal Year 1998-99 was approved at 9:04 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Cox, Engelhard, Hyman, Langley, Larson, Miller and Wright. Noes: Council Members McKissick, Clement and Griffin. Absent: None.

[SUPPLEMENTAL ITEM]

SUBJECT: 1997 LEGISLATIVE PROGRAM

To receive a report from the City Attorney on the 1997 Legislative Program.

City Attorney Henry Blinder distributed information to Council stating that no bills were introduced on the following proposals: 1) Drug Sales Near Parks/Playgrounds; 2) Hazardous Waste Transportation; and 3) Revoke Local License for Child Support.

Representative George Miller noted that there was already a statewide act which allows for revocation of occupational licenses for failure to pay child support. He stated the local act was a privilege license which was a tax. Relative to the proposal for Hazardous Waste Transportation, Mr. Miller noted this issue needed to come through the federal program and would require some federal changes. In order to have a felony statute apply to the sale of drugs in parks and playgrounds, Representative Miller stated the Council needed to identify if the areas were state or local, and provide the metes and boundaries of the parks.

Discussion was held by Council on the exclusion of Durham from the local option revenue bill for transit purposes. Several Council Members asked Representative Miller for his

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assistance in this particular area.

MOTION by Council Member Larson seconded by Council Member Miller to receive a report from the City Attorney on the 1997 Legislative Program was approved at 9:33 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

There being no further business to come before the Council, the meeting was adjourned at 9:33 p.m.

D. Ann Gray
Deputy City Clerk

Margaret M. Bowers, CMC
City Clerk